

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MISSION PHARMACAL COMPANY,

Plaintiff,

v.

MOLECULAR BIOLOGICALS, INC.,

Defendant.

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Civil Action No. _____

NOTICE OF REMOVAL

Defendant Molecular Biologicals, Inc., (“Defendant”) through its counsel, respectfully removes this action pursuant to 28 U.S.C. §§1332, 1441, and 1446 from the 73rd Judicial District Court, Bexar County, Texas to the U.S. District Court for the Western District of Texas, San Antonio Division. The grounds for removal are as follows:

PROCEDURAL BACKGROUND

1. On November 10, 2020, Plaintiff Mission Pharmacal Company (“Plaintiff”) filed its Original Petition (the “Petition”) in the district courts of Bexar County, Texas. The matter was assigned Cause Number 2020CI21910 in the 73rd Judicial District.

2. Plaintiff asserts a single cause of action for breach of contract against Defendant, alleging that Defendant failed to pay for third-party logistics services provided pursuant to a Master Services Agreement.

3. On November 23, 2020, Plaintiff served Defendant with the Petition.

4. On December 11, 2020, Defendant answered the Petition and set forth its general denial of the allegations and affirmative defenses. Defendant reserves the right to assert any defense available under the Federal Rules of Civil Procedure, including Rule 12.

FEDERAL JURISDICTION

5. Plaintiff is a corporation organized under the laws of Texas, with its principal place of business located in Bexar County, Texas.

6. As Plaintiff acknowledges in its Petition, Defendant “is a foreign corporation organized under the laws of the State of Delaware.” Defendant’s related Texas entity and predecessor is now defunct, as it was “converted into Molecular Biologicals, LLC, a Delaware limited liability company,” and then was subsequently “converted from a Delaware limited liability company to the Delaware corporation” named in the Petition. Defendant’s principal place of business is located at 3420 Keswick Road, Keswick, Virginia 22947.

7. Plaintiff seeks damages calculated as “the principal amount of \$2,439,264.00, plus late charges, the maximum prejudgment and post-judgment interest as may be allowed by law or contractually agreed,” attorneys’ fees and costs. Plaintiff pleaded damages in excess of \$75,000, exclusive of interest and costs.

8. Because the parties are citizens of Texas and Delaware respectively and because there is a sufficient amount in controversy, this Court has jurisdiction pursuant to 28 U.S.C. §1332.

9. The above-described civil action is therefore one that may be removed pursuant to 28 U.S.C. §§1332, 1441, and 1446 and is hereby removed.

TIMELY REMOVAL

10. Defendant is the sole defendant named in the Petition. This Notice of Removal is being filed within 30 days of Plaintiff’s November 23, 2020 service of its Petition on Defendant. Removal is therefore timely pursuant to 28 U.S.C. §1446(b)(2).

PROPER VENUE AND COMPLIANCE WITH REMOVAL PROCEDURE

11. Venue of this removed action is proper in this Court as the district and division embracing the place where the state action is pending, Bexar County, Texas. 28 U.S.C. §1441(a).

12. Pursuant to 28 U.S.C. §1446(d), Defendant will give Plaintiff notice of the filing of this Notice of Removal by promptly filing a copy of this Notice of Removal with the clerk of the District Court of the 73rd Judicial District, Bexar County, Texas where the action is currently pending.

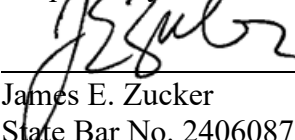
13. Copies of all process, pleadings, and orders served on Defendant in the state court action are being filed with this Notice of Removal, as required by 28 U.S.C. §1446(a), as Exhibit A.

CONCLUSION AND PRAYER

For these reasons, Defendant respectfully requests that this action proceed in this Court upon removal and the Court grant Defendant all other relief to which it is entitled.

Dated: December 22, 2020

Respectfully submitted,



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Attorney for Defendant
Molecular Biologicals, Inc.

Certificate of Service

I hereby certify that on this 22nd day of December 2020, the foregoing was served by email and/or by electronic filing service on the following counsel of record:

Andres S. Medrano
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3000 One American Center
600 Congress Avenue
Austin, Texas 78701-3056

/s/ James E. Zucker

James E. Zucker